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on behalf of all other similarly situated and aggrieved  
employees.

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF ORANGE**  
**(UNLIMITED JURISDICTION – CLASS ACTION)**

TIMOTHY JOHN NGO, individually, on  
behalf of all other similarly situated employees,  
and as a representative of the California Labor  
Workforce Development Agency,

Plaintiff,

vs.

TRIPLE T GOLDEN CORP.; TRIPLE T  
SILVER CORP.; TRIPLE T PLATINUM,  
CORP.; QUAN HOANG TRAN; CHI MANH  
TRAN; AND TIMMY TANG; AND DOES 1-  
25

Defendants.

CASE NO.: 30-2023-01326461-CU-OE-CXC

Assigned for all Purposes to Hon. William D.  
Claster (Dept. CX104)

**FIRST AMENDED COMPLAINT**

1. Failure to Pay Overtime;
2. Failure to Provide Meal Periods;
3. Failure to Provide Rest Periods;
4. Failure to Provide Accurate Itemized Wage Statements;
5. Failure to Pay All Wages Due at Termination;
6. Civil Penalties for Violation of Private Attorneys General Act of 2004; and
7. Unlawful, Unfair and Fraudulent Business Practices.

1 1. Plaintiff Timothy John Ngo, individually and on behalf of all other similarly situated  
2 employees, alleges as follows:

3 **I. INTRODUCTION**

4 2. Plaintiff Timothy John Ngo, individually, on behalf of all other similarly situated  
5 employees, and as a representative of the California Labor Workforce Development Agency  
6 brings this class action against his former employers Triple T Golden Corp., Triple T Silver Corp.,  
7 Triple T Platinum, Corp., Quan Hoang Tran, Chi Manh Tran, Timmy Tang and Does 1-25  
8 (collectively, “Defendants<sup>1</sup>”) to recover (1) underpaid overtime; (2) unpaid premiums for missed  
9 or non-compliant meal and rest periods, (3) waiting time penalties; (4) statutory penalties for  
10 failure to provide accurate wage statements; and (5) all applicable civil penalties, interest,  
11 reasonable attorneys’ fees, and costs.

12 3. This class action asserts claims against Defendants for violations of (a) California Labor  
13 Code, (b) Industrial Wage Commission (“IWC”) Order 5-2001 (“Wage Order 5-2001”) or other  
14 applicable Wage Order, and (c) California Business and Professions Code section 17200 *et. seq.*

15 4. For at least four years prior to the filing of this action (“statute of limitations period”),  
16 Defendants have engaged in a system of willful violations of California wage-and-hour laws by  
17 unlawfully denying Plaintiff and other similarly situated employees the benefits and protections of  
18 California Labor Code and Industrial Wage Commission’s applicable Wage Order. Specifically,  
19 Defendants (1) failed to pay Plaintiff and other similarly situated employees overtime; (2) failed to  
20 provide Plaintiff and other similarly situated employees with an opportunity to take compliant  
21 meal and rest periods or pay one additional hour for each day when meal and rest periods were  
22 non-compliant, (3) willfully failed to pay compensation owed to Plaintiff and all similarly situated  
23 employees in a timely manner, and (4) willfully failed to provide Plaintiff and all similarly  
24 situated employees with accurate semi-monthly itemized wage statements.

25 5. Plaintiff also seeks to serve as a representative of the general public and the California  
26 Labor Workforce Development Agency (“LWDA”) to enforce and uphold California's wage and  
27

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28 <sup>1</sup> Unless otherwise stated, Triple T Golden Corp., Triple T Silver Corp., Triple T Platinum,  
Corp., Quan Hoang Tran, Chi Manh Tran, Timmy Tang and Does 1-25 are hereinafter collectively  
referred to as “Defendants.”

1 hour laws as a representative and private attorneys' general as expressly permitted by Labor Code  
2 section 2698 *et seq.*, pursuant to the Private Attorneys general Act of 2004 ("PAGA"). Plaintiff  
3 has complied with all notice provisions and is an aggrieved employee as required by the PAGA to  
4 serve as private attorney's general as a representative on behalf of the general public.

## 5 **II. JURISDICTION AND VENUE**

6 6. This class action is brought pursuant to the California Code of Civil Procedure section 382.  
7 The monetary damages sought by Plaintiff on behalf of himself and on behalf of all other similarly  
8 situated employees exceed the minimal jurisdictional limits of the Superior Court.

9 7. This Court has jurisdiction over Defendants because upon information and belief, each  
10 party is either a citizen of California, has sufficient minimum contacts in California, or otherwise  
11 intentionally avails itself of the California market so as to render the exercise of jurisdiction over it  
12 by the California courts consistent with traditional notions of fair play and substantial justice.  
13 Specifically, Defendants employed Plaintiff and other similarly situated employees in California.

14 8. Venue as to Defendants is proper in this judicial district pursuant to California Code of  
15 Civil Procedure Section 395(a). Defendants are located within Orange County, transact business,  
16 have agents, and are otherwise within this Court's jurisdiction for purposes of service of process.  
17 The unlawful acts alleged herein have a direct effect on Plaintiff, other similarly situated  
18 employees and those similarly situated within the State of California and Orange County.  
19 Defendants operate a business and have employed Plaintiff and other similarly situated employees  
20 in Orange County.

## 21 **III. PARTIES**

### 22 **A. Plaintiff**

23 9. During the relevant statute of limitations period, Plaintiff Timothy John Ngo is an  
24 individual over the age of 18 and is resident of Orange County, California.

### 25 **B. Corporate Defendants**

26 10. Defendant Triple T Golden Corp., is a California corporation, registered with the  
27 California Secretary of State under the same name as Triple T Golden Corp., (Entity No.  
28 C3416507). Its principal place of business is located at 2750 Alton Parkway, Suite 121, Irvine, CA

92626.

11. Defendant Triple T Silver Corp. is a California corporation, registered with the California Secretary of State under the same name as Triple T Silver Corp., (Entity No. C3816335). Its principal place of business is located at 1835 Newport Boulevard, Costa Mesa, CA 92627.

12. Defendant Triple T Platinum Corp. is a California corporation, registered with the California Secretary of State under the same name as Triple T Platinum Corp., (Entity No. C3712481). Its principal place of business is located at 704 Spectrum Center Drive, Irvine, CA 92618.

### **C. Individual Defendants**

13. Quan Hoang Tran is a natural person and is an individual over the age of eighteen (18). Plaintiff is informed and believes, and on that basis alleges, that Defendant Quan Hoang Tran resides in the County of Orange and is a shareholder, director, and executive officer of Triple T Golden Corp., Triple T Silver Corp., Triple T Platinum, Corp.

14. Chi Manh Tran is a natural person and is an individual over the age of eighteen (18). Plaintiff is informed and believes, and on that basis alleges, that Defendant Quan Hoang Tran resides in the County of Orange and is a shareholder, director, and executive officer of Triple T Golden Corp., Triple T Silver Corp., Triple T Platinum, Corp.

15. Timmy Tang is a natural person and is an individual over the age of eighteen (18). Plaintiff is informed and believes, and on that basis alleges, that Defendant Quan Hoang Tran resides in the County of Orange and is a shareholder, director, and executive officer of Triple T Golden Corp., Triple T Silver Corp., Triple T Platinum, Corp.

### **D. Joint Enterprise Defendants**

16. Defendants (collectively, "Defendants") are a joint enterprise and a family-owned business that owns and operates at least three Vietnamese restaurants in California with identical names – "Pho Saigon Pearl."

17. Plaintiff is informed and believes and thereon alleges that all Defendants performed (either through unified operation or common control) the related activities for a common business purpose as a single enterprise. Defendants performed all such activities through one or more

1 establishments or by one or more corporate or other organizational units. Defendants were and are  
2 under common ownership in that one corporate defendant so dominated and controlled the  
3 finances, policies and practices of the other corporate Defendants and that the other corporate  
4 defendants were merely a conduit or instrument of the controlling corporation in pursuit of a  
5 single business venture. Therefore, disregarding the separate nature of the corporations is  
6 necessary to prevent an injustice to Plaintiff and all other affected employees.

7 18. Plaintiff is informed and believes and thereon alleges that all Defendants participated in a  
8 common venture or in a similar or functionally reciprocal business; they have identical equitable  
9 ownership; common directors, officers, and employees; share the same resources, pool assets and  
10 revenues, or use of one corporation's financial resources to pay or guaranty the other's obligations.  
11 Defendants jointly benefited from transactions entered into by one of them. Defendants used  
12 common management and financial control, and their operations depended on each other.

13 **E. Section 558.1 Defendants**

14 19. On information and belief, Plaintiff alleges that during the relevant liability period, Quan  
15 Hoang Tran, Chi Manh Tran, Timmy Tang were acting on behalf of Triple T Golden Corp.,  
16 Triple T Silver Corp., Triple T Platinum, Corp., and they violated, or caused to be violated,  
17 various provisions of the California Labor Code ("Labor Code"), including, but not limited, to Part  
18 2, Chapter 1 of the Labor Code, which regulates hours and days of work in the applicable order of  
19 the Industrial Welfare Commission. Quan Hoang Tran, Chi Manh Tran, Timmy Tang also violated  
20 Wage Order No. 5, Sections, regulating hours and days of work. Quan Hoang Tran, Chi Manh  
21 Tran, Timmy Tang exercised substantial discretionary authority or oversight over decisions that  
22 ultimately determined the corporate defendants' unlawful employment policies, as alleged below.  
23 Therefore, under Labor Code sections 558 and 558.1, Quan Hoang Tran, Chi Manh Tran, Timmy  
24 Tang are personally liable for all alleged violations of relevant sections of California Labor Code.

25 **F. Alter Ago**

26 20. On information and belief, Plaintiff alleges that During the relevant statute of limitations  
27 period, Quan Hoang Tran, Chi Manh Tran, Timmy Tang were and are owners, managers and/or  
28 directors of Triple T Golden Corp., Triple T Silver Corp., Triple T Platinum, Corp. and these

1 individual defendants have such unity of interest among each other, that they have in fact  
2 dominated and controlled the operation of corporate defendants Triple T Golden Corp., Triple T  
3 Silver Corp., Triple T Platinum, Corp. The individual defendants Quan Hoang Tran, Chi Manh  
4 Tran, Timmy Tang did, among other things:

- 5 a) Commingled funds and other assets between Triple T Golden Corp., Triple T Silver  
6 Corp., Triple T Platinum, Corp.' funds with their own funds and assets for their own  
7 convenience and to assist in evading the payment of obligations;
- 8 b) Diverted funds and other assets from Triple T Golden Corp., Triple T Silver Corp.,  
9 Triple T Platinum, Corp. to other than corporate uses;
- 10 c) Treated Triple T Golden Corp.'s, Triple T Silver Corp.'s, Triple T Platinum, Corp.'s  
11 assets as their own;
- 12 d) Failed to obtain authority to issue shares or to subscribe to issue shares;
- 13 e) Failed to maintain minutes or adequate corporate records;
- 14 f) Failed to adequately capitalize or provide any assets to Triple T Golden Corp., Triple T  
15 Silver Corp., Triple T Platinum, Corp.;
- 16 g) Diverted assets from Triple T Golden Corp., Triple T Silver Corp., Triple T Platinum,  
17 Corp., to themselves to the detriment of creditors, including Plaintiff; and
- 18 h) Used Triple T Golden Corp., Triple T Silver Corp., Triple T Platinum, Corp. as a  
19 "facade" for personal dealings.

20 21. As a result of this conduct, Defendants Triple T Golden Corp., Triple T Silver Corp.,  
21 Triple T Platinum, Corp. and Quan Hoang Tran, Chi Manh Tran, Timmy Tang are directly liable  
22 to Plaintiff and other employees for the conduct of each other in carrying out the obligations to  
23 Plaintiff and are the alter egos of each other. Recognition of the privilege of separate existence  
24 would promote injustice because the corporate and individual defendants have profited from the  
25 deprivation of the rights of Plaintiff and other employees.

#### 26 **G. Doe Defendants**

27 22. The true names and capacities of Defendants Does 1 through 25, inclusive, are currently  
28 unknown to Plaintiff, whom, therefore, Plaintiff sues by their fictitious names pursuant to  
California Code of Civil Procedure section 474. Plaintiff is informed and believes and thereon

1 alleges that each of those Defendants was in some manner responsible for the events and  
2 happenings alleged in this complaint and for Plaintiff's injuries and damages. Plaintiff will either  
3 seek leave to amend this Complaint or file a DOE statement to alleges the true names and  
4 capacities of DOES 1 through 25, inclusive, when they are ascertained.

#### 5 **IV. GENERAL ALLEGATIONS**

##### 6 **A. Plaintiff's Employment and Defendants' Policies and Practices that** 7 **Violated Labor Code**

8 23. Defendants own and operate a network of at least three Vietnamese restaurants in  
9 California with the identical name – "Pho Saigon Pearl."

10 24. From August 13, 2022 to October 13, 2022, Defendants jointly employed Plaintiff as a  
11 front-of-house employee. All and each of them were joint employers of Plaintiff because they  
12 exercised control over the wages, hours, or working conditions of Plaintiff. They jointly engaged,  
13 suffered, or permitted Plaintiff to work under working conditions described herein. During the  
14 relevant statute of limitations period, they jointly had control or the right to control Plaintiff both  
15 as to the work done and the manner and means in which his work was performed. During the  
16 relevant statute of limitations period, the same employment relationship existed between all  
17 Defendants and other employees Plaintiff seeks to represent in this class and representative action.

18 25. During the relevant statute of limitations period, as hourly non-exempt employees, Plaintiff  
19 and other similarly situated employees were entitled to the benefits and protections of California  
20 Labor Code and California Industrial Welfare Commission Occupational Wage Order No. 5-2001  
21 (Title 8 California Code of Regulations §11040 or other applicable Wage Order(s).

22 26. As a front-of-house employee, Plaintiff performed all duties of a busboy, waiter, and food  
23 runner. For services provided, Defendants paid Plaintiff minimum wage of \$15 per hour. On  
24 average, Plaintiff and other similarly situated employees worked 10-12 hours per workday, some  
25 days even longer. Normally he worked five days per week.

##### 26 **1. Underpaid Overtime**

27 27. Throughout the relevant statute of limitations period, pursuant to Defendants' uniform  
28 policy, pattern, and practice, Defendants failed to pay Plaintiff and other similarly situated

1 employees overtime. Instead, Defendants implemented a fraudulent payroll scheme through which  
2 they falsified the employees' wage statements to create a false appearance that they never worked  
3 overtime hours.

4 28. For example, during the entire employment period, Plaintiff worked only at one location:  
5 Pho Saigon Perl at 2750 Alton Parkway, Suite 121, Irvine, CA. Despite working more than 8  
6 hours per day and more than 40 hours per week, Defendants failed to pay Plaintiff overtime.  
7 Instead, Defendants implemented a fraudulent payroll scheme through which they falsified  
8 Plaintiff's wage statements to create a false appearance that Plaintiff never worked overtime hours.  
9 For example, Defendants issued to Plaintiff two separate wage statements from two separate legal  
10 entities for the same period, which resulted in splitting his work hours between two wage  
11 statements. One example of such a fraudulent payroll is Plaintiff's pay period from September 19,  
12 2022 to October 2, 2022, during which Plaintiff worked at least 8 hours of overtime. The  
13 Defendants issued Plaintiff two wage statements:

- 14 a. One statement was for 77.31 work hours at \$15 per hour from the  
15 corporation Triple T Golden Corp. for work performed at Pho Saigon Perl,  
16 2750 Alton Parkway, Suite 121, Irvine, CA, where Plaintiff has always  
17 worked.
- 18 b. The second statement was for 8 hours at \$15 per hour from the corporation  
19 Triple T Platinum Corp. for work ostensibly performed at Pho Saigon Perl,  
20 704 Spectrum Center Dr, Irvine, CA, where Plaintiff never worked.

21 29. This example demonstrates that Plaintiff was underpaid at least 8 hours of overtime and  
22 even more.

23 30. Because of the fraudulent payroll practice described above, Defendants failed to pay  
24 overtime to Plaintiff and other similarly situated employees who worked overtime hours.

## 25 ***2. Failure to Provide Compliant Meal Periods or to Pay Premiums Instead***

26 31. During the relevant statute of limitations period, Plaintiff and other similarly situated  
27 employees regularly worked more than 5 hours per shift. Throughout the relevant statute of  
28 limitations period, pursuant to Defendants' uniform policy, pattern and practice, Defendants failed



1 to comply with the California meal break requirements because they failed to provide an  
2 opportunity for Plaintiff and other similarly situated employees to take their 30-minute  
3 uninterrupted meal breaks for every five hours of work and failed to pay one additional hour of  
4 pay for each day when meal period was missed or non-compliant.

5 32. Specifically, every week during the statute of limitations period, Defendants failed to  
6 comply with their duty to provide meal breaks in one or more of the following ways:

- 7 a. Plaintiff and other similarly situated employees could not take meal breaks  
8 due to a heavy workload and no available relief worker.
- 9 b. Due to a shortage of relief workers and heavy workload, Plaintiff and other  
10 similarly situated employees were forced to take their meal periods after the  
11 first five hours of work.
- 12 c. Due to a shortage of relief workers and heavy workload, Plaintiff and other  
13 similarly situated employees were often interrupted during their meal  
14 breaks.
- 15 d. Due to a shortage of relief workers and heavy workload, Plaintiff and other  
16 similarly situated employees were often required to stay on duty during  
17 their meal break; and
- 18 e. Due to a shortage of relief workers and heavy workload, Plaintiff and other  
19 similarly situated employees could not take two meal breaks when they  
20 worked more than 10 hours.

21 33. Because Defendants failed to provide Plaintiff and other similarly situated employees with  
22 an opportunity to take timely, uninterrupted, and complete off-duty meal periods, under Labor  
23 Code section 226.7, Plaintiff and other similarly situated employees are entitled to one additional  
24 hour of pay for each work shift when meal periods were late, interrupted, incomplete, or not  
25 provided (known as meal period premiums). As a result of the uniform policies, practices, and  
26 customs, Defendants failed to pay such meal period premiums to Plaintiff and other similarly  
27 situated employees.  
28

### 3. *Failure to Provide Compliant Rest Break or to Pay Premiums Instead*

34. Plaintiff and other similarly situated employees regularly worked more than 4 hours per shift without a 10-minute rest break. Every week during the relevant statute of limitations period, they could not take rest breaks due to a staff shortage or busy and demanding workload. Throughout the relevant the relevant statute of limitations period, pursuant to Defendants' uniform policy, pattern and practice, on a weekly or daily basis, Defendants failed to provide Plaintiff and other similarly situated employees with an opportunity to take one 10-minute rest breaks for each 4 hours of work or major fraction of thereof. Defendants did not pay Plaintiff and other similarly situated employees one hour of pay at the employee's regular rate of compensation for each workday that the rest period was late, non-compliant, or not provided at all.

35. Because Defendants failed to provide Plaintiff and other similarly situated employees with an opportunity to take timely, uninterrupted, and complete off-duty rest breaks, under Labor Code section 226.7, Plaintiff and other similarly situated employees are entitled to one additional hour of pay for each work shift when rest breaks were late, interrupted, incomplete, or not provided (known as rest break premiums). As a result of Defendants' uniform policy, pattern, and practice, Defendants failed to pay such rest break premiums to Plaintiff and other similarly situated employees.

#### ***4. Failure to Provide Accurate Wage Statements***

36. Throughout the relevant statute of limitations period, pursuant to Defendants' uniform policy, pattern, and practice, including the fraudulent payroll practice described above, Defendants failed to provide Plaintiff and other similarly situated employees with accurate wage statements. Defendants issued wage statements to Plaintiff and other similarly situated employees; however, they failed to provide accurate wage statements that contained all information required by Labor Code Section 226(a) including (1) gross wages earned, (2) total hours worked by the employee, ... (4) all deductions, (5) net wages earned and (9) all applicable hourly rates in effect.

### ***5. Failure to Pay All Wages Owed at Separation***

37. Plaintiff terminated his employment with Defendants on October 13, 2022. However, he did not receive his last paycheck until the end of October 2022, two weeks after his separation

1 date. Plaintiff is informed and believes, and thereon alleges that during the relevant liability  
2 period, Defendants failed to pay other employees all wages due upon termination of within 72  
3 hours of the separation notice. Plaintiff is informed and believes, and thereon alleges, that  
4 Defendants knew or should have known that Plaintiff and other similarly situated employees were  
5 entitled to timely payment of all wages earned upon termination of employment. In violation of  
6 the California Labor Code Sections 201-202, Plaintiff and other similarly situated employees did  
7 not receive payment of all wages due, including, but not limited to, compensation for waiting and  
8 reporting time, overtime wages, and meal and rest period premiums, at the time of their separation.

9 **V. CLASS ACTION ALLEGATIONS**

10 38. Plaintiff, on behalf of himself and the class, alleges and incorporates by reference the  
11 allegations in the preceding paragraphs.

12 39. At all times herein relevant, Plaintiff was and is now a person within the class of persons  
13 further described and defined herein and aggrieved employees of Defendants.

14 40. As used throughout this Complaint, the term "Class Members" and/or the "Plaintiff Class"  
15 refers to the named Plaintiff as well as each and every person eligible for membership in the class  
16 of persons further described and defined herein.

17 41. Plaintiff brings this action on behalf of himself as a class action, pursuant to California  
18 Code of Civil Procedure Section 382, on behalf of all persons similarly situated and defined as:

19 All persons who are or have been employed by Defendants as hourly non-exempt employees  
20 in California, at any time commencing four years prior<sup>2</sup> to the filing of this Complaint, to the  
21 final disposition of this case ("Class Members").

22 42. Plaintiff seeks class certification pursuant to California Code of Civil Procedure Section  
23 382 of the following Subclasses:

- 24 a. *Overtime Subclass*: all Class Members, who worked one or more shifts in excess of  
25 eight (8) hours in a day or forty (40) hours in a workweek in California and were not  
26 paid the proper regular hourly rate for overtime hours during the period commencing

27  
28 <sup>2</sup> Subject to California Rules of Court, Emergency Rule 9(a) ("statutes of limitations and  
repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 to October 1,  
2020.")

- 1 four years prior to the filing of this Complaint, to the final disposition of this case;
- 2 b. *Meal Period Subclass*: all Class Members who worked one or more shifts in excess of
- 3 five hours without receiving a 30-minute meal period for each five hours of work
- 4 during which they were relieved of all duties during the period commencing four
- 5 years prior to the filing of this Complaint, to the final disposition of this case;
- 6 c. *Rest Break Subclass*: all Class Members who worked one or more shifts in excess of
- 7 3.5 hours without receiving a 10-minute rest period for each 3.5 hours of work per
- 8 shift during which they were relieved of all duties during the period commencing four
- 9 years prior to the filing of this Complaint, to the final disposition of this case;
- 10 d. *Wage Statement Subclass*: all Class Members who did not receive accurate wage
- 11 statements from Defendants compliant with California Labor Code section 226(a)
- 12 during the period commencing four years prior to the filing of this Complaint, to the
- 13 final disposition of this case; and
- 14 e. *Waiting Time Penalty Subclass*: all Class Members who were not properly paid under
- 15 Labor Code Sections 201-202 at the time that they terminated his employment with
- 16 Defendants, and thus were eligible for Labor Code section 203 penalties during the
- 17 period commencing four years prior to the filing of this Complaint, to the final
- 18 disposition of this case.

19 43. The above-described class and sub-classes may be collectively referred to as the "Class,"

20 or individually as "Subclass." Plaintiff reserves the right under Rule 3.765 of the California Rules

21 of Court to amend or modify the Class description with greater specificity or further division into

22 subclasses or limitation to particular issues, or to expand the class or subclasses based on ongoing

23 discovery and investigation.

24 44. The basic job duties of the Class Members were/are the same as or substantially similar to

25 those of Plaintiff and they were/are paid in the same manner and worked under the same terms and

26 conditions of employment, and under the common policies, plans and practices as Plaintiff.

27 45. The Class Members, like Plaintiff, have been subject to the same unlawful policies,

28 patterns, and practices of Defendants as alleged in this Complaint.

1       46. As a result of Defendants' conduct as alleged herein, Defendants violated the specified  
2 provisions of the California Labor Code as to the Class Members.

3       47. Defendants' violations of the California Labor Code and/or its regulations were willful,  
4 repeated, knowing, intentional and without a good faith basis, and significantly damaged Plaintiff  
5 and the Class Members.

6       48. As a result of Defendants' conduct, Defendants are liable to Plaintiff and the Class  
7 Members for overtime, premiums for non-compliant meal and rest periods, as well as statutory  
8 penalties for the violations alleged herein, plus reasonable attorneys' fees and costs incurred by  
9 Plaintiff and the Class Members.

10       49. This action has been brought and may properly be maintained as a class action under the  
11 California Code of Civil Procedure Section 382 because there is a well-defined community of  
12 interest in the litigation and the proposed Class is easily ascertainable.

13           a. Numerosity: A class action is the only available method for the fair and  
14 efficient adjudication of this controversy. The members of the Plaintiff  
15 Class are so numerous that joinder of all members is impractical, if not  
16 impossible, insofar as the Plaintiff is informed and believes and, on that  
17 basis, alleges that the total number of Class Members is more than 50  
18 individuals. Membership in the Class will be determined by and upon  
19 analysis of employee and payroll records, among other records maintained  
20 by Defendants.

21           b. Commonality: Plaintiff and the Class Members share a community of  
22 interests in that there are numerous common questions and issues of fact  
23 and law which predominate over any questions and issues solely affecting  
24 individual members, including, but not necessarily limited to:

25                   i. Whether Defendants violated California Labor Code sections 1194  
26 and 510 when they failed to pay Plaintiff and the Class Members  
27 overtime compensation;

28                   ii. Whether Defendants violated California Labor Code sections 512

- 1 and 226.7 by failing to provide 30-minute off-duty meal periods or  
2 pay a premium instead to Plaintiff and the Class Members;
- 3 iii. Whether Defendants violated California Labor Code sections 512  
4 and 226.7 by failing to provide 10-minute off-duty rest periods or  
5 pay a premium instead to Plaintiff and the Class Members;
- 6 iv. Whether Defendants violated California Labor Code section 226 by  
7 failing to provide Plaintiff and the Class Members with semimonthly  
8 itemized statements;
- 9 v. Whether Defendants violated Sections 201-202 of the Labor Code  
10 by failing to pay wages, overtime, and premiums for denied rest  
11 periods and meal periods due and owing at the time that any class  
12 member's employment with Defendants terminated; and
- 13 vi. Whether Plaintiff and the Class Member are entitled to waiting time  
14 penalties under Labor Code section 203 and/or underpayment  
15 penalties under Labor Code section 210.
- 16 i. Whether Defendants' practices were unlawful, unfair, or fraudulent  
17 business acts in violation of UCL Sections 17200 *et seq.*, and
- 18 c. Typicality: Plaintiff's claims are typical of the claims of the Class  
19 Members. Plaintiff and the Class Members sustained damages arising out of  
20 and caused by Defendants' uniform policies and practices. Due to  
21 Defendants' company-wide policies and practices, Plaintiff and Class  
22 Members suffered the same kind of damages and harm. Plaintiff and the  
23 Class Members did not receive compensation for overtime hours at a proper  
24 regular hourly rate, premiums for missed or non-compliant meal and rest  
25 periods, and premiums for missed or non-compliant meal and rest periods at  
26 a proper regular hourly rate. As a result, Plaintiff and the Class Members  
27 were consistently underpaid. Therefore, Defendants owe Plaintiff and the  
28 Class Members unpaid wages. In addition, Defendants failed to provide

1 Plaintiff and the Class Members the wage statements accurately stating (1)  
2 gross wages earned, (2) total hours worked by the employee, ... (4) all  
3 deductions, and (5) net wages earned. Furthermore, Plaintiff and class  
4 members did not receive payment of all wages due, including, but not  
5 limited to, meal and rest period upon his separation. Therefore, Plaintiff is a  
6 member of the Class and has suffered the alleged violations of California  
7 Labor Code §§ 201-204, 210, 226, 226.7, 512 and Wage Order No. 5-2001,  
8 Sections 11 and 12.

9 d. Adequacy of Representation: Plaintiff in this class action is an adequate  
10 representative of the Class Members in that Plaintiff's claims are typical of  
11 those of the Class Members and the Plaintiff has the same interest in the  
12 litigation of this case as the Class Members. Plaintiff is committed to  
13 vigorous prosecution of this case. Plaintiff is not subject to any individual  
14 defenses unique from those conceivably applicable to the Class Members as  
15 a whole. Plaintiff anticipates no management difficulties in this litigation. In  
16 addition, Plaintiff has retained counsel who are competent and experienced  
17 in class action litigation. Plaintiff's attorneys have successfully represented  
18 employees in numerous wage and hour class actions and have been  
19 litigating wage and hour class actions since approximately 2014.

20 e. Superiority of Class Action: Since the damages suffered by individual Class  
21 Members, while not inconsequential, may be relatively small, the expense  
22 and burden of individual litigation by each member makes or may make it  
23 impractical for members of the Class to seek redress individually, for the  
24 wrongful conduct alleged herein. Should separate actions be brought, or be  
25 required to be brought, by each individual member of the Class, the  
26 resulting multiplicity of lawsuits would cause undue hardship and expense  
27 for the Court and the litigants. The prosecution of separate actions would  
28 also create a risk of inconsistent rulings which might be dispositive of the

1 interests of other Class Members who are not parties to the adjudications  
2 and/or may substantially impede their ability to adequately protect their  
3 interests.

4 50. Plaintiff intends to send notice to all members of the California Class to the extent required  
5 by Section 382. The names and addresses of the Class Members are available from Defendants'  
6 employment records.

7 **FIRST CAUSE OF ACTION**

8 **Failure to Pay Overtime**

9 **(Violation of Labor Code §§ 510, 1194, 204, 210 and the Applicable Wage Order)**

10 **(Plaintiff Individually and On Behalf of the *Overtime Subclass* Against All Defendants)**

11 51. Plaintiff incorporates by reference as though fully set forth herein the preceding paragraphs  
12 of this Complaint.

13 52. During the relevant statute of limitations period, Defendants were employers subject to  
14 California Labor Code section 510 and California Industrial Welfare Commission Wage Order 5-  
15 2001, which include provisions setting forth the definition of overtime and the amount of  
16 compensation to be paid to an employee that works overtime.

17 53. During the relevant statute of limitations period, pursuant to Defendants' uniform policy,  
18 practice, and pattern, Defendants were required to compensate Plaintiff and the Class Members for  
19 all overtime work performed, at 1.5 times the regular rate of pay for hours worked in excess of 8  
20 hours per day and/or 40 hours per week (whichever was greater), and for the first 8 hours on the  
21 7th consecutive day of any work week. Additionally, Defendants were required to compensate  
22 Plaintiff and the Class Members with double time after 12 hours in a single workday and after 8  
23 hours on the 7th consecutive day of any work week.

24 54. On more than one occasion, During the relevant statute of limitations period, pursuant to  
25 Defendants' uniform policy, practice, and pattern, Defendants engaged, suffered, or permitted  
26 Plaintiff and the Class Members to work in excess of 8 hours in a day.

27 55. On more than one occasion, During the relevant statute of limitations period, pursuant to  
28 Defendants' uniform policy, practice, and pattern, Defendants engaged, suffered, or permitted



1 Plaintiff and the Class Members to work in excess of forty (40) hours a week.

2 56. On more than one occasion, During the relevant statute of limitations period, pursuant to  
3 Defendants' uniform policy, practice, and pattern, Defendants engaged, suffered, or permitted  
4 Plaintiff and the Class Members to work 12 hours in a single workday and more than 8 hours on  
5 the 7th consecutive day of any work week.

6 57. Pursuant to Defendants' uniform policy, practice, and pattern, Defendants hired and  
7 required Plaintiff and the Class Members to perform job duties and assignments that do not satisfy  
8 the exempt requirements of Labor Code or the applicable wage order, including the Wage Order  
9 No. 5.

10 58. Pursuant to Defendants' uniform policy, practice, and pattern, Defendants have failed to  
11 pay Plaintiff and the Class Members an overtime premium for every hour of overtime that  
12 Defendants engaged, suffered, or permitted Plaintiff to work in violation of Labor Code section  
13 1194.

14 59. As a direct and proximate result of Defendants' wrongful acts and omissions alleged  
15 herein, Plaintiff and the Class Members have suffered actual damages in an amount subject to  
16 proof at trial. Plaintiff and the Class Members have incurred and will continue to incur attorney's  
17 fees as a result of prosecuting this cause of action.

18 60. Furthermore, Labor Code section 204(a) provides in pertinent part that

19 (a) All wages, other than those mentioned in Section 201, 201.3, 202,  
20 204.1, or 204.2, earned by any person in any employment are due  
21 and payable twice during each calendar month, on days  
22 designated in advance by the employer as the regular paydays.  
23 Labor performed between the 1st and 15th days, inclusive, of any  
24 calendar month shall be paid for between the 16th and the 26th  
25 day of the month during which the labor was performed, and labor  
26 performed between the 16th and the last day, inclusive, of any  
27 calendar month, shall be paid for between the 1st and 10th day of  
28 the following month. However, salaries of executive,  
administrative, and professional employees of employers covered  
by the Fair Labor Standards Act, as set forth pursuant to Section  
13(a)(1) of the Fair Labor Standards Act, as amended through  
March 1, 1969, in Part 541 of Title 29 of the Code of Federal  
Regulations, as that part now reads or may be amended to read at  
any time hereafter, may be paid once a month on or before the  
26th day of the month during which the labor was performed if

1 the entire month's salaries, including the unearned portion  
2 between the date of payment and the last day of the month, are  
3 paid at that time.

4 61. Pursuant to Defendants' uniform policy, practice, and pattern, Defendants failed to comply  
5 with the requirement of Labor Code section 204 when they failed to pay Plaintiff and the Class  
6 Members overtime once or twice during each month. This violation was willful and intentional.  
7 As such, Plaintiff seeks for himself and the Class Members all statutory penalties provided by  
8 Labor Code section 210.

9 62. Wherefore, Plaintiff prays for relief as set forth below.

## 10 **SECOND CAUSE OF ACTION**

### 11 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**

12 **[Cal. Lab. Code §§ 512, 226.7, and Wage Order 5-2001]**

13 **(Plaintiff Individually and On Behalf the *Meal Period Subclass* Against All Defendants)**

14 63. Plaintiff incorporates by reference as though fully set forth herein the preceding paragraphs  
15 of this Complaint.

16 64. During the relevant statute of limitations period, Defendants were employers subject to  
17 California Labor Code section 512 and California Industrial Welfare Commission Wage Order 5-  
18 2001, which include provisions requiring Defendants to provide meal periods to Plaintiff and the  
19 Class Members. At all times alleged herein, Plaintiff and the Class Members were non-exempt  
20 employees of Defendants under California law.

21 65. During the relevant statute of limitations period, Defendants were aware of and were under  
22 a duty to comply with California Labor Code sections 226.7 and 512, as well as Wage Order 5-  
23 2001.

24 66. California Industrial Welfare Commission Wage Order 5-2001 provides that no employer  
25 shall employ any person for a work period of more than 5 hours without providing a meal period  
26 at least 30 minutes and that no employer shall employ any person for a work period of more than  
27 10 hours without providing a second meal period of at least 30 minutes.

28 67. Labor Code section 226.7 and the applicable Wage Orders of the Industrial Welfare  
Commission provide that if an employer fails to provide a non-exempt employee with an

1 appropriate off duty meal period, the employer must pay the employee one hour of pay at the  
2 employee's regular rate of compensation for each workday that the meal period is not provided. If  
3 an employer fails to provide an employee with a rest period in accordance with the Order, the  
4 employer shall pay the employee one hour of pay at the employee's regular rate of compensation  
5 for each workday that the rest period is not provided.

6 68. During the statute of limitations period, pursuant to Defendants' uniform policy, practice,  
7 and pattern, on a weekly or daily basis, Defendants required Plaintiff and the Class Members  
8 regularly to work for at least 5 hours per workday without providing an opportunity for taking a  
9 meal period.

10 69. By failing to regularly provide timely uninterrupted and unrestricted meal periods, during  
11 which Plaintiff and the Class Members were required to be relieved of all duty, Pursuant to  
12 Defendants' uniform policy, practice, and pattern, Defendants violated California Labor Code  
13 sections 226.7 and 512, as well Wage Order No. 5-2001.

14 70. Some of the examples of Defendants' unlawful common practices include, but not limited  
15 to, the following conducts:

- 16 a. Defendants failed to provide a 30-minute off duty meal break within the  
17 first five hours of work due to a staff shortage; therefore, any breaks were  
18 late;
- 19 b. Defendants failed to provide second meal period when Plaintiff and the  
20 Class Members worked 10 hours per shift or more;
- 21 c. Defendants interrupted Plaintiff and the Class Members' meal breaks and as  
22 such these meal breaks were shorter than 30 minutes;
- 23 d. Defendants failed to provide Plaintiff and the Class Members with meal  
24 breaks at all despite the employees worked more than five hours per shift;
- 25 e. Defendants failed to establish a record keeping or reporting system that  
26 would track all missed or non-complaint meal breaks;

27 71. Because Defendants failed to provide the required meal breaks, Defendants are liable to  
28 Plaintiff and the Class Members for one hour of additional pay at the regular rate of compensation

1 for each workday that the proper meal breaks were not provided pursuant to Labor Code section  
2 226.7 and Wage Order 5-2001. During the statute of limitations period, pursuant to Defendants'  
3 uniform policy, practice, and pattern, Defendants failed to compensate Plaintiff and the Class  
4 Members for each workday that adequate meal periods were not provided one additional hour of  
5 pay (meal break premiums).

6 72. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein,  
7 Plaintiff and the Class Members have sustained damages, including unpaid premiums resulting  
8 from missed or non-compliant meal periods, in an amount to be established at trial pursuant to  
9 Labor Code sections 226.7 and 512.

10 73. Pursuant to Defendants' uniform policy, practice, and pattern, Defendants failed to comply  
11 with the requirement of Labor Code section 204 when they failed to pay Plaintiff and the Class  
12 Members premiums for missed or non-complaint meal periods once or twice during each month.

13 74. This violation was willful and intentional. Defendants knew that Plaintiff and the Class  
14 Members were non-exempt employees working without meal breaks and knowingly failed to  
15 provide meal and rest breaks. On information and belief Plaintiff alleges that Plaintiff and the  
16 Class Members regularly complained to Defendants about missed or non-compliant meal breaks.

17 75. . As such, Plaintiff seeks for himself and the Class Members all statutory penalties  
18 provided by Labor Code section 210.

19 76. Plaintiff, for himself and the Class Members, further seeks reasonable attorneys' fees and  
20 costs pursuant to Labor Code § 218.5.

21 77. Wherefore, Plaintiff prays for relief as set forth below.

22 **THIRD CAUSE OF ACTION**

23 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**

24 **[Cal. Lab. Code §226.7 and Wage Order 5-2001, Section 12]**

25 **(Plaintiff Individually and On Behalf of the *Rest Break Subclass* Against All Defendants)**

26 78. Plaintiff incorporates by reference as though fully set forth herein the preceding paragraphs  
27 of this Complaint.

28 79. During the relevant statute of limitations period, Defendants were employers subject to

1 California Labor Code section 512 and California Industrial Welfare Commission Wage Order 5-  
2 2001, which include provisions requiring Defendants to provide rest periods to Plaintiff and the  
3 Class Members.

4 80. During the relevant statute of limitations period, Defendants were aware of and were under  
5 a duty to comply with California Labor Code sections 226.7 and as well as Wage Order 5-2001 of  
6 the Industrial Welfare Commission.

7 81. California Industrial Welfare Commission Wage Order 5-2001, Section 12 provides that  
8 every employer shall authorize and permit all employees to take rest periods, which insofar as  
9 practicable shall be in the middle of each work period. The authorized rest period time shall be  
10 based on the total hours worked daily at the rate of 10 minutes net rest time per 4 hours or major  
11 fraction thereof.

12 82. Labor Code section 226.7 and the applicable Wage Orders of the Industrial Welfare  
13 Commission provide that if an employer fails to provide a non-exempt employee with an  
14 appropriate off duty meal period, the employer must pay the employee one hour of pay at the  
15 employee's regular rate of compensation for each workday that the meal period is not provided. If  
16 an employer fails to provide an employee with a rest period in accordance with the Order, the  
17 employer shall pay the employee one hour of pay at the employee's regular rate of compensation  
18 for each workday that the rest period is not provided.

19 83. During the employment period, Plaintiff and the Class Members regularly worked for at  
20 least 4 hours per workday.

21 84. During the statute of limitations period, pursuant to Defendants' uniform policy, practice,  
22 and pattern, Defendants failed to provide Plaintiff and the Class Members with adequate rest  
23 periods as required by California law and failed to compensate Plaintiff and the Class Members  
24 for each workday that adequate rest periods were not provided one additional hour of pay (rest  
25 break premiums).

26 85. During the statute of limitations period, pursuant to Defendants' uniform policy, practice,  
27 and pattern, Defendants failed to provide Plaintiff and the Class Members with timely off-duty rest  
28 periods of not less than 10 minutes as required by the Labor Code. Some of the examples of

Defendants' unlawful common practices include, but not limited to, the following conducts:

- a. Defendants failed to provide one 10-minute off duty rest break when Plaintiff and the Class Members worked more than 3.5 hours per shift.
- b. Defendants failed to provide two 10-minute off duty rest breaks when Plaintiff and the Class Members worked more than 6 hours per shift.
- c. Defendants failed to provide three 10-minute off duty rest breaks when Plaintiff and the Class Members worked more than 10 hours per shift.
- d. Defendants interrupted Plaintiff and the Class Members' rest breaks and as such these meal breaks were shorter than 10 minutes;
- e. Defendants failed to establish a record keeping or reporting system that would track all missed or non-complaint rest breaks;

86. By failing to regularly provide timely uninterrupted and unrestricted rest periods, during which Plaintiff and the Class Members were required to be relieved of all duty, Defendants violated California Labor Code sections 226.7 and Section 12 of Wage Order No. 5-2001.

87. Because Defendants failed to provide the required rest breaks, Defendants are liable to Plaintiff and the Class Members for one hour of additional pay at the regular rate of compensation for each workday that the proper rest breaks were not provided pursuant to Labor Code section 226.7 and Wage Order 5-2001. Throughout the relevant statute of limitations period, pursuant to Defendants' uniform policy, pattern, and practice, Defendants failed to pay one additional hour of pay for each day that rest break was not compliant or missed.

88. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff and the Class Members have sustained damages, including unpaid premiums resulting from missed rest periods, in an amount to be established at trial pursuant to Labor Code sections 226.7 and 512.

89. Pursuant to Defendants' uniform policy, practice, and pattern, Defendants failed to comply with the requirement of Labor Code section 204 when they failed to pay Plaintiff and the Class Members premiums for missed or non-complaint rest periods once or twice during each month.

90. This violation was willful and intentional. Defendants knew that Plaintiff and the Class

1 Members were non-exempt employees working without rest breaks and knowingly failed to  
2 provide meal and rest breaks. On information and belief Plaintiff alleges that Plaintiff and the  
3 Class Members regularly complained to Defendants about missed or non-compliant rest breaks.  
4 As such, Plaintiff seeks for himself and the Class Members all statutory penalties provided by  
5 Labor Code section 210.

6 91. Plaintiff, for himself and the Class Members, further seeks reasonable attorneys' fees and  
7 costs pursuant to Labor Code § 218.5.

8 92. Wherefore, Plaintiff prays for relief as set forth below.

9 **FOURTH CAUSE OF ACTION**

10 **Failure to Provide Accurate Itemized Wage Statements**

11 **(Cal. Lab. Code §§ 226(a) & (e) and Wage Order 5-2001)**

12 **(Plaintiff Individually and On Behalf of the *Wage Statement Subclass* Against All**  
13 **Defendants)**

14 93. Plaintiff incorporates by reference as though fully set forth herein the preceding paragraphs  
15 of this Complaint.

16 94. Labor Code section 226(a) provides that every employer shall furnish each of his or his  
17 employees an accurate itemized wage statement in writing showing nine pieces of information,  
18 including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of  
19 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,  
20 (4) all deductions, provided that all deductions made on written orders of the employee may be  
21 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for  
22 which the employee is paid, (7) the name of the employee and the last four digits of his or his  
23 social security number or an employee identification number other than a social security number,  
24 (8) the name and address of the legal entity that is the employer and, (9) all applicable hourly rates  
25 in effect during the pay period and the corresponding number of hours worked at each hourly rate  
26 by the employee.

27 95. Pursuant to Defendants' uniform policy, practice, and pattern, Defendants willfully and  
28 knowingly failed to provide Plaintiff and the Class Members with the accurate wages statements

1 containing: (1) gross wages earned, and (2) total hours worked by the employee; and (3) all  
2 deductions, and (5) net wages earned, (9) and, (9) all applicable hourly rates in effect during the  
3 pay period and the corresponding number of hours worked at each hourly rate by the employee.

4 96. One example of Defendants' willful failure to comply with the requirements of Section  
5 226 is Defendants' fraudulent payroll scheme through which they falsified Plaintiff's wage  
6 statements to create a false appearance that their employee never worked overtime hours. For  
7 example, Defendants issued to Plaintiff and other employees two separate wage statements from  
8 two separate legal entities for the same period, which resulted in splitting work hours between two  
9 wage statements. Therefore, this violation was committed knowingly and intentionally.

10 97. California Labor Code section 226(e) further provides that any employee suffering injury  
11 due to a willful violation of the aforementioned obligations may collect the greater of either actual  
12 damages or \$50 for the first inadequate pay statement and \$100 for each inadequate statement  
13 thereafter. During the course of Plaintiff employment, Defendants consistently failed to provide  
14 Plaintiff and Class Members with adequate pay statements as required by California Labor Code  
15 section 226.

16 98. Pursuant to Defendants' uniform policy, practice, and pattern, Defendants failed to provide  
17 such adequate statements willingly and with full knowledge of his obligations under section 226.  
18 Defendants' failure to provide such adequate statements has caused injury to the Plaintiff and  
19 Class Members.

20 99. Plaintiff and Class Members are entitled to recover the greater of actual damages or  
21 penalties as a result of Defendants' failure to provide proper records, in an amount to be proven at  
22 trial. Plaintiff incurred costs and attorneys' fees in bringing this action, and such costs and attorney  
23 fees should be awarded to Plaintiff and Class Members under California Labor Code section 226.

24 100. Plaintiff, for himself and Class Members, seeks reasonable attorneys' fees and costs  
25 pursuant to Labor Code section 226.

26 101. Wherefore, Plaintiff prays for relief as set forth below.

27 **FIFTH CAUSE OF ACTION**

28 **Failure to Pay All Wages Due at Termination**



1 (Cal. Labor Code §§ 201 – 203)

2 (Plaintiff Individually and on Behalf of *Waiting Time Penalties Subclass* Against All  
3 Defendants)

4 102. Plaintiff incorporates by reference as though fully set forth herein the preceding  
5 paragraphs of this Complaint.

6 103. Labor Code section 201 provides that an employer is required to provide an  
7 employee who is terminated all accrued wages and compensation at the time of termination. Labor  
8 Code section 202 requires an employer to provide an employee who resigns without a 72-hour  
9 notice, all accrued wages and compensation within 72 hours of the resignation notice. Under  
10 Labor Code section 203, if an employer willfully fails to pay such wages, for every day that final  
11 wages or any part of the final wages remain unpaid, the employer is liable for a penalty equivalent  
12 to the employee's daily wage, for a maximum of 30 days.

13 104. On October 13, 2022, Plaintiff terminated his employment with Defendants;  
14 however, as described above, Defendants willfully failed and refused to pay Plaintiff all accrued  
15 wages owed at the time of termination, including unpaid wages, overtime, meal and rest break  
16 premiums, as required under California Labor Code sections 201 and 226.7.

17 105. Since the date of Plaintiff's termination to this date, Plaintiff has been available and  
18 ready to receive the wages due and owing to him. Plaintiff has not refused to receive any payment  
19 from Defendants.

20 106. On information and belief, Plaintiff alleges that, during the relevant statute of  
21 limitations period, many other employees were terminated or resigned who were not paid  
22 premiums for missed meal and rest breaks at the time of his separation as required under Labor  
23 Code Sections 201 or 202.

24 107. Defendants' failure to pay Plaintiff's and other similarly situated employees' wages  
25 was willful in that Plaintiff has made written demand for his payments but Defendants has refused  
26 to pay any portion of the amount due and owing to Plaintiff and other similarly situated  
27 employees.

28 108. Defendants' willful failure and refusal to pay Plaintiff and other similarly situated

1 employees' wages due and owing constitute a violation of Labor Code section 203 that provides  
2 that an employee's wages will continue as a penalty until paid up to 30 days from the time the  
3 wages were due.

4 109. Pursuant to Labor Code sections 201-203, Plaintiff and the Class Members are  
5 entitled to and hereby seeks to recover a waiting time penalty in an amount to be determined at  
6 trial.

7 110. Wherefore, Plaintiff prays for relief as set forth below.

8 **SIXTH CAUSE OF ACTION**

9 **Civil Penalties for Violation of Private Attorneys General Act of 2004**

10 **(Cal. Lab. Code §§ 2698 *et seq.* - Representative PAGA)**

11 **(Plaintiff, on Behalf of the LWDA, as to All Aggrieved Employees Against All Defendants)**

12 111. Plaintiff incorporates by reference as though fully set forth herein the preceding  
13 paragraphs of this Complaint.

14 112. On April 19, 2023, Plaintiff notified Defendants and the California Labor and  
15 Workforce Development Agency ("LWDA") via certified mail of Defendants' violations pursuant  
16 to Labor Code section 2966.3.

17 113. From April 19, 2023 to the present, Defendants did not take any remedial action  
18 and the LWDA did not intervene to investigate Plaintiff's claims. Accordingly, Plaintiff files this  
19 cause of action as a representative action under the Labor Code section 2699.3(a)(2)(C) and he is  
20 entitled to recover civil penalties for violations committed by Defendants from April 19, 2022,  
21 through the present ("PAGA Period") on behalf of himself and all other aggrieved non-exempt  
22 employees of Defendants pursuant to Labor Code sections 2698 *et seq.*

23 114. Under the California Private Attorneys General Act ("PAGA") of 2004, Cal. Lab.  
24 Code §§ 2698-2699.5, an aggrieved employee, on behalf of himself and other current or former  
25 employees as well as the general public, may bring a representative action as a private attorney  
26 general to recover penalties for an employer's violations of the California Labor Code and IWC  
27 Wage Orders. These civil penalties are in addition to any other relief available under the California  
28 Labor Code, 75% must be allocated to California's Labor and Workforce Development Agency

1 (“LWDA”) and 25% to the aggrieved employee, pursuant to California Labor Code § 2699.

2 115. Plaintiff is an aggrieved employee with standing to bring this cause of action under  
3 the PAGA Act because of his employment with Defendants and Defendants’ failure to comply  
4 with various California Labor Code violations for work performed in California as alleged above.

5 116. Plaintiff has satisfied all prerequisites to serve as a representative of the general  
6 public to enforce California’s labor laws, including, without limitation, the penalty provisions  
7 identified in Labor Code section 2699.5. The LWDA indicated that it would not be investigating  
8 the claims set forth herein. Since the LWDA took no steps within the time period required to  
9 intervene and because Defendants took no corrective action to remedy the allegations set forth  
10 above Plaintiff, as a representative of the people of the State of California, will seeks any and all  
11 civil penalties otherwise capable of being collected by the Labor Commission and/or the  
12 Department of Labor Standards Enforcement (DLSE).

13 117. Plaintiff alleges, on behalf of the LWDA, that Defendants have violated the  
14 following provisions of the California Labor Code and the following provisions of the IWC Wage  
15 Orders that are actionable through the California Labor Code and PAGA as to himself and all  
16 other aggrieved employees, as previously alleged herein:

- 17 a. Failure to pay Plaintiff and other aggrieved employees the full amount of overtime  
18 wages (Cal. Lab. Code §§ 510 and 2699 and Wage Order No. 5-2001, Section 5);
- 19 b. Failure to provide meal and rest break periods (Cal. Lab. Code §§ 512, 226.7, 558, and  
20 2699 and Wage Order No. 5-2001, Sections 11 and 12);
- 21 c. Failure to Provide Accurate Wage Statements (Cal. Lab. Code §§ 226, 226.3, and 2699  
22 and Wage Order No. 5-2001, Sections 7);
- 23 d. Failure to pay one additional hour of pay for each day when meal break was late, non-  
24 compliant, or not provided at all. (Cal. Lab. Code §§ 512, 226.7, 558, and 2699 and  
25 Wage Order No. 5-2001, Section 11);
- 26 e. Failure to pay one additional hour of pay for each day when meal and/or rest breaks  
27 were late, non-compliant, or not provided at all. (Cal. Lab. Code §§ 226.7, 558, and  
28 2699 and Wage Order No. 5-2001, Section 12);

1 118. California Labor Code § 2699(f), which is part of PAGA, provides in pertinent  
2 part:

3 For all provisions of this code except those for which a civil penalty is  
4 specifically provided, there is established a civil penalty for a violation of  
5 these provisions, as follows: . . . (2) If, at the time of the alleged violation, the  
6 person employs one or more employees, the civil penalty is one hundred  
7 dollars (\$100) for each aggrieved employee per pay period for the initial  
8 violation and two hundred dollars (\$200) for each aggrieved employee per pay  
9 period for each subsequent violation.

10 119. Plaintiff is entitled to recover civil penalties on behalf of the LWDA, to be paid by  
11 Defendants and allocated as PAGA requires, pursuant to California Labor Code § 2699(a) for  
12 Defendants' violations of the California Labor Code and IWC Wage Orders for which violations a  
13 civil penalty is already specifically provided by law.

14 120. Furthermore, Plaintiff is entitled to recover civil penalties on behalf of the LWDA,  
15 to be paid by Defendants and allocated as PAGA requires, pursuant to California Labor Code §  
16 2699(f) for Defendants' violations of the California Labor Code and IWC Wage Orders for which  
17 violations a civil penalty is not already specifically provided.

18 121. Under PAGA, Plaintiff and the State of California are entitled to and seeks to  
19 recover the maximum civil penalties permitted by law for the violations of the California Labor  
20 Code and IWC Wage Order No. 5-2001 or other applicable Wage Order(s) that are alleged in this  
21 Complaint.

22 122. Plaintiff, for himself and the Class Members, further seeks reasonable attorneys'  
23 fees and costs pursuant to Labor Code sections 558 and 2699.

24 123. Wherefore, Plaintiff prays for relief as set forth below.

## 25 **SEVENTH CAUSE OF ACTION**

### 26 **Unlawful, Unfair and Fraudulent Business Practices**

27 **[Cal. Bus. & Prof. Code §§ 17200 et seq.]**

28 **(Plaintiff Individually and on Behalf of the Class Members Against All Defendants)**

124. Plaintiff incorporates by reference as though fully set forth herein the preceding  
paragraphs of this Complaint.

1       125.       The California Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§  
2 17200 *et seq.*, prohibits unfair competition in the form of any unlawful, unfair or fraudulent  
3 business act or practice. UCL Section 17202 provides: "Notwithstanding Section 2289 of the Civil  
4 Code, specific or preventative relief may be granted to enforce a penalty, forfeiture, or penal law  
5 in case of unfair competition."

6       126.       UCL Section 17203 provides that the Court may restore to any person in interest  
7 any money or property which may have been acquired by means of such unfair competition. UCL  
8 Section 17203 also provides that any person who meets the standing requirements of Section  
9 17204 and complies with California Code of Civil Procedure Section 382 may pursue  
10 representative claims for relief on behalf of others.

11       127.       UCL Section 17204 allows "any person who has suffered injury in fact and has lost  
12 money or property as a result of such unfair competition" to prosecute a civil action for violation  
13 of the Unfair Business Practices Act.

14       128.       Labor Code Section 90.5(a) states that it is the public policy of California to  
15 vigorously enforce minimum labor standards in order to ensure employees are not required to  
16 work under substandard and unlawful conditions, and to protect employers who comply with the  
17 law from those who attempt to gain competitive advantage at the expense of his workers by failing  
18 to comply with the minimum standards law.

19       129.       Pursuant to UCL Section 17202, Plaintiff and other similarly situated employees  
20 are entitled to enforce all applicable provisions of the Labor Code. Beginning at an exact date  
21 unknown to Plaintiff, but at least since the date four years prior to the filing of this suit,  
22 Defendants have committed acts of unfair competition as defined by the Unfair Business Practices  
23 Act, by engaging in the unlawful, unfair and fraudulent practices and acts described in this  
24 Complaint, including, but not limited to:

- 25       a. Failure to pay the full amount of overtime wages (Cal. Lab. Code §§ 510 and 2699 and  
26       Wage Order No. 5-2001);
- 27       b. Failure to provide meal and rest break periods (Cal. Lab. Code §§ 512, 226.7, 558, and  
28       2699 and Wage Order No. 5-2001, Sections 11 and 12);

1 c. Failure to pay one additional hour of pay for each day when meal break was late, non-  
2 compliant, or not provided at all. (Cal. Lab. Code §§ 512, 226.7, 558, and 2699 and  
3 Wage Order No. 5-2001, Section 11);

4 d. Failure to pay one additional hour of pay for each day when rest break was late, non-  
5 compliant, or not provided at all. (Cal. Lab. Code §§ 226.7, 558, and 2699 and Wage  
6 Order No. 5-2001, Section 12);

7 130. By violating these statutes and regulations, the acts of Defendants constitute unfair  
8 and unlawful business practices under UCL Sections 17200 *et seq.*

9 131. The violations of these laws and regulations, as well as of fundamental California  
10 public policies protecting workers, serve as unlawful predicate acts and practices for purposes of  
11 UCL Sections 17200 and 17203, *et seq.*

12 132. The acts and practices described above constitute unfair, unlawful and fraudulent  
13 business practices, and unfair competition, within the meaning of UCL Sections 17200 and 17203,  
14 *et seq.* Defendants' violation of the law and regulations described above constitutes a business  
15 practice because it was done repeatedly over a significant period of time and in a systematic  
16 manner to the detriment of Plaintiff and Class Members. Among other things, Defendants'  
17 practices of not paying overtime, premiums for missed, late, or non-compliant meal and rest  
18 breaks. The acts and practices described above have allowed Defendants to gain an unfair  
19 competitive advantage over law-abiding employers and competitors.

20 133. As a direct and proximate result of the acts and practices described herein, Plaintiff  
21 and Class Members have been denied compensation, in an amount to be proven at trial. Plaintiff  
22 and those similarly situated have accordingly each suffered injury in fact and have lost money or  
23 property as a result of Defendants' unfair, unlawful and fraudulent business practices, and unfair  
24 competition.

25 134. Plaintiff and the Class Members are entitled to restitution pursuant to UCL Section  
26 17203 for all wages and other compensation unlawfully withheld from employees during the four-  
27 year period prior to the filing of the complaint.

28 135. Plaintiff's success in this action will enforce important rights affecting the public

1 interest. Therefore, Plaintiff sues on behalf of the general public, as well as himself and the Class  
2 Members.

3 136. An award of attorneys' fees is appropriate pursuant to California Code of Civil  
4 Procedure Section 1021.5 and other applicable laws, because: 1) this action will confer a  
5 significant benefit upon a large class of persons; 2) there is a financial burden involved in pursuing  
6 this action; and 3) it would be against the interest of justice to force Plaintiff to pay attorneys' fees  
7 from any amount recovered in this action.

## 8 **VI. PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff on behalf of himself and the proposed Class demands judgment  
10 against Defendants as follows:

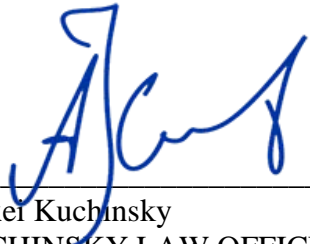
- 11 a. For an order, pursuant to California Code of Civil Procedure Section 382, certifying this  
12 action as a class action, appointing Plaintiff as Class Representative, and Plaintiff's  
13 attorneys as Class Counsel;
- 14 a. All compensatory and general damages against all Defendants in an amount according  
15 to proof, including unpaid overtime, premiums for missed and non-compliant meal and  
16 rest periods,
- 17 b. For statutory penalties under Labor Code sections 203, 210 and 226;
- 18 c. For a declaratory judgment that Defendants have violated California Labor Laws and  
19 applicable Wage Order, as alleged herein;
- 20 a. For all applicable civil penalties, including but not limited to, Labor Code sections  
21 1197.1, 558, 2698, *et seq.* and IWC Wage Order No. 5.
- 22 b. For prejudgment and post-judgment interest according to any applicable provision of  
23 law, according to proof;
- 24 c. That Defendants be ordered and enjoined to pay restitution to Plaintiff and each Plaintiff  
25 Class Member due to Defendants' unlawful and unfair competition, including  
26 disgorgement of his wrongfully obtained profits, wrongfully withheld wages according  
27 to proof, and interest thereon pursuant to Business and Professions Code sections 17203  
28 and 17204;
- d. For reasonable attorneys' fees and costs of suit, pursuant to the California Labor Code  
sections 1194, 218.5, 558, 226, 2698 *et. seq.* and California Code of Civil Procedure

1 Section 1021.5.

2 e. Other relief as this Court deems just and proper.

3 f. In the event of default and for purposes of Prove-Up Hearing, Plaintiff notifies all  
4 Defednants that the maximum potential recovery, including civil penalties, for all causes  
5 of action for all employees, including Plaintiff, is at least \$1.5 million, not including  
6 attorney's fees and costs.

7 Dated: October 13, 2023

8   
9 BY \_\_\_\_\_  
10 Alexei Kuchinsky  
11 KUCHINSKY LAW OFFICE, P.C.  
12 Matthew S. Parmet  
13 PARMET PC  
14 *Attorneys for Plaintiff and proposed Class*  
15 *Members*